

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BRAINWAVE SCIENCE, INC.

Plaintiff

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U.S. District Court,
EDNY, Brooklyn
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Letter from Defendant Dr. Lawrence A. Farwell seeking
guidance from Judge Cogan regarding compliance with
Preliminary Injunction and Order of 12/19/2022.

- against -

Civil Action No.: 21-cv-4402 (BMC-RLM)

ARSHEE, INC., DR. LAWRENCE A. FARWELL, DR.
THIERRY MAISON and BRAIN FINGERPRINTING
FOUNDATION

Defendants.

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Honorable Brian M. Cogan
United States District Court Judge
U.S. Eastern District, New York

January 5, 2023

Dear Judge Cogan:

I, Dr. Lawrence A. Farwell, am a defendant in this case.

I am writing to ask for the guidance of Your Honor and this Court regarding my compliance with the orders of the Court.

This Court's Preliminary Injunction ordered as follows:

"Defendants must take any and all commercially-practicable actions to recall or replace any software containing plaintiff's 'confidential or proprietary information' from third parties." At the time, I took what I considered to be "any and all commercially-practicable actions to recall or replace any software containing plaintiff's 'confidential or proprietary information' from third parties," in light of who those third parties are and their legal status with respect to this Court.

In its Order of December 19, 2022, this Court ruled otherwise, and threatened me with prison and fines if I made the same mistake again. Said Order stated as follows: "Dr. Farwell is ORDERED to request the return of all software conveyed to third parties that contains plaintiff's 'confidential or proprietary information,' as defined above, by December 31, 2022."

I now believe that I have timely complied with both the Preliminary Injunction and the December 19 Order.

In order to be certain not to make the same mistake twice, I am writing to seek the guidance of this Court regarding whether my actions have been adequate, or whether any additional actions are required for me to be in compliance.

For most of my clients, complying with the Order to "recall" and "request return of" "any software containing plaintiff's 'confidential or proprietary information' from third parties" was simple and straightforward.

Due to the circumstances described in the attached letter (Exhibit A) to the Director of the CIA, William Burns, the situation is more complicated with my client the CIA. It is a matter of record that about 80% of the software in the Farwell Brain Fingerprinting System now in use by the CIA is comprised of "plaintiff's 'confidential or proprietary information.'" I have admitted the same myself (EFS #59, p. 6 – 7). This is not surprising, as both the CIA Software and the Dr. Maison BWS Software were generated by copying and translating the same pre-existing program that I wrote. I am familiar with every line of code in both programs.

I do not know exactly what modifications BWS made to the Dr. Maison BWS Software, after receiving my software from Dr. Maison, to make their software appear more similar to mine, before submitting to Codequiry; however, this is unlikely to change the 80% figure.

I have not met personally with Director Burns. The face-to-face meetings wherein the currently ongoing program was initiated to apply Farwell Brain Fingerprinting in counterterrorism worldwide – the program that the plaintiff is seeking to use this Court and its orders to terminate – were with Director Burns' predecessor and his predecessor's boss, the President of the United States.

The attached letter (Exhibit A) is my best attempt to comply with the Preliminary Injunction and the Order of December 19, 2022 to "recall" and "request the return of" the software now in use by the CIA, in light of the fact that it clearly meets the definition of "plaintiff's 'confidential or proprietary information.'"

I am writing to ask for Your Honor's guidance regarding said letter. Please inform me if it meets the standard demanded by the Preliminary Injunction and the Order of December 19, 2022, or if additional actions by myself are required.

Sincerely,



Dr. Lawrence A. Farwell
Defendant

Central Intelligence Agency
Director William J. Burns
Washington, DC 20505

December 30, 2022

Dear Director Burns:

My name is Dr. Lawrence A. Farwell. I am the inventor of Brain Fingerprinting.

I am writing per a court order to recall and request the return of certain software now in the possession of the CIA, as described below.

I first worked for the CIA on contract No. 92-F138600-000 comprising research on using Farwell Brain Fingerprinting to detect concealed information stored in the brain for the purpose of investigating terrorism and other crimes.

I have also met personally with your predecessor, Jim Woolsey. He is familiar with some of my more recent activities in applying Farwell Brain Fingerprinting in counterterrorism.

The situation is as follows. Brain Fingerprinting is a scientific technology to detect concealed information stored in the brain. (See <https://farwellbrainfingerprinting.com>.) I invented Brain Fingerprinting in 1985 and patented it in 1994, 1995, and 2010.

In 1993, in conjunction with the contract specified above and another related contract between Westinghouse and the CIA, Westinghouse and I collaborated in the development of a Farwell Brain Fingerprinting System that was delivered to the CIA. This system was produced by porting the software I had developed, Farwell Brain Fingerprinting 3.0, to a Unix platform. The Farwell-Westinghouse system delivered to the CIA was virtually identical to the existing Farwell Brain Fingerprinting 3.0 system that I was using in my research with the CIA and the FBI at the time, except for the different operating system and software addressing the respective digital signal processing boards. Both were written in C++.

In 2019, Dr. Thierry Maison, the CTO at the time of a Massachusetts company, Brainwave Science, Inc. ("BWS"), ported the same software, Farwell Brain Fingerprinting 3.0, to a Microsoft Visual Studio / .NET platform and to a different language, C#. This is referred to as the Dr. Maison BWS Software.

Since both the Dr. Maison BWS Software and the Farwell Brain Fingerprinting System developed and delivered to the CIA in 1993 were developed by porting the Farwell Brain Fingerprinting 3.0 to a different language and development platform, the CIA System and the BWS System are virtually identical. The only exception to this is the small section of the software that communicates with the digital signal processor that processes the EEG signal. This comprises about 10% - 20% of the software.

In 2019, BWS filed a lawsuit (US District Court, Eastern District of New York, case # 21-cv-4402) claiming that the methods and algorithms in the various versions of the Farwell Brain Fingerprinting System – the same methods and algorithms in the CIA Brain Fingerprinting System delivered to the CIA in 1993 – had not been developed by myself starting in 1985. BWS claimed that these methods and algorithms had been developed by BWS in 2019, and that Dr. Maison and myself subsequently stole the same from BWS and distributed them to my clients.

Based on these allegations, the court issued a preliminary injunction and a subsequent order requiring me to “recall” and “request the return of” all software that included any part of the BWS Software that BWS developed in 2019 submitted to the court in 2019.

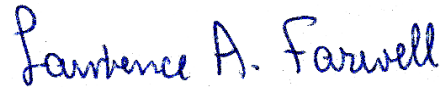
As I have stated in a sworn affidavit, about 80% of the software in the CIA System we provided to the CIA in 1993 is identical to the BWS 2019 system. (This is no surprise, since both were developed by simply porting my pre-existing Farwell Brain Fingerprinting 3.0 to new platforms and languages.) Therefore, I am required to “recall” and “request the return of” the software we delivered to the CIA in 1993, based on the BWS’ claim that I stole the same software from BWS in 2019, after they developed it in 2019.

In summary, because 80% of the software in the CIA Brain Fingerprinting System we delivered to the CIA in 1993 is identical to the BWS 2019 system, the specific wording of the court order requires me to “recall” and “request the return of” the same.

Therefore, I hereby “recall” and “request the return of” the software contained in the CIA Brain Fingerprinting System that we delivered to the CIA in 1993.

I will be happy to provide any additional information you request.

Sincerely,

A handwritten signature in blue ink that reads "Lawrence A. Farwell". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Dr. Lawrence A. Farwell, PhD

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